

## **REMARKS**

Reconsideration and withdrawal of the rejections to the claims and consideration and entry of this paper are respectfully requested in view of the herein remarks, which place the application in condition for allowance.

### **I. STATUS OF CLAIMS AND FORMAL MATTERS**

(This supplemental amendment is essentially the same as the response filed on 28 March 2007 with the following minor corrections:

- (1) Claim 1 (page 3 of this response, line 8 of text) now also shows the deletion of: the expression "X<sub>1</sub> or X<sub>2</sub> is a " and the term ", it".
- (2) The status of claims which should now be allowable has been amended below ("As such, claims 1-5, 7-11 and 24 should now be allowable"); and
- (3) The claims requested to be allowed upon rejoinder has been amended below ("Allowance to be granted for claims 1-5, 7-12, 20-22 and 24"))).

The applicants appreciate the Examiner's acknowledgement of allowable subject matter with respect to claims 4, 5, 7, 8, 11 and 24. The applicants note that claims 1-3, 9 and 10 were objected to as containing non-elected subject matter. While the applicants do not concede that the restriction was proper, the non-elected subject matter has been cancelled from claims 1-3, 9 and 10; the applicants reserve the right to file a divisional application to further pursue this cancelled subject matter. (Claims 1-3 have been further amended to ensure the type of heterocycle is consistent with those encompassed by the allowable subject matter, e.g. claims 4, 5, 7 and 8). As such, claims 1-5, 7-11 and 24 should now be allowable.

Claims 12, 13, 25 and 26 were rejected for lack of enablement which is addressed below. With the cancellation of claims 13-19, 25 and 26 and minor amendments to claims 20-22, claims 1-5, 7-12, 20-22, and 24 are still pending in this application. No new matter has been added.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

**II. THE 35 U.S.C. 112, 1<sup>ST</sup> PARAGRAPH REJECTION HAS BEEN OVERCOME**

Claims 12, 13, 25 and 26 have been rejected as allegedly failing to be enabling for the treatment of all cancers. While the applicants do not agree with this holding, in order to expedite prosecution, claims 13, 25 and 26 have been cancelled and claim 12 has been amended to delete reference to the treatment of a disease or disorder mediated by the inhibition of cyclin dependent kinase (Cdk). The applicants reserve the right to further pursue the scope of the originally filed claims in a continuation application.

**III. CLAIM REJOINDER**

With the cancellation of claims 14-19, claims 20-22 are the only remaining claims which have been withdrawn from consideration. As previously noted by the applicants in their 3 February 2006 response, these claims are subject to rejoinder as they are directed to the method of making (claims 20-22) the allowed compounds and contain all of the limitations of the compound claims (MPEP 821.04 - rejoinder).

Therefore, it is presumed that there are no remaining issues preventing a Notice of Allowance to be granted for claims 1-5, 7-12, 20-22 and 24.

**CONCLUSION**

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP

By: Howard C. Lee  
Marilyn M. Brogan     Howard C. Lee  
Reg. No. 31,233        Reg. No. 48,104

Telephone: (212) 588-0800  
Facsimile: (212) 588-0500